



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB4562

Introduced 1/18/2008, by Rep. Dan Brady

SYNOPSIS AS INTRODUCED:

5 ILCS 140/2

from Ch. 116, par. 202

625 ILCS 5/11-208.6

Amends the Illinois Vehicle Code. Provides that a county or municipality may not use an automated traffic law enforcement system as a basis for charging a person facing a steady red light with a traffic violation for turning right, or for turning left from a one-way street onto another one-way street, regardless of whether or not the turn is otherwise permitted under the Code. Denies home rule powers. Provides that additional designated counties may also establish a system. Provides that recorded images made by an automated traffic law enforcement system may be obtained under the Freedom of Information Act, and makes a corresponding change in that Act.

LRB095 16091 WGH 42109 b

HOME RULE NOTE
ACT MAY APPLY

A BILL FOR

1 AN ACT concerning transportation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Freedom of Information Act is amended by
5 changing Section 2 as follows:

6 (5 ILCS 140/2) (from Ch. 116, par. 202)

7 Sec. 2. Definitions. As used in this Act:

8 (a) "Public body" means any legislative, executive,
9 administrative, or advisory bodies of the State, state
10 universities and colleges, counties, townships, cities,
11 villages, incorporated towns, school districts and all other
12 municipal corporations, boards, bureaus, committees, or
13 commissions of this State, any subsidiary bodies of any of the
14 foregoing including but not limited to committees and
15 subcommittees which are supported in whole or in part by tax
16 revenue, or which expend tax revenue, and a School Finance
17 Authority created under Article 1E of the School Code. "Public
18 body" does not include a child death review team or the
19 Illinois Child Death Review Teams Executive Council
20 established under the Child Death Review Team Act.

21 (b) "Person" means any individual, corporation,
22 partnership, firm, organization or association, acting
23 individually or as a group.

1 (c) "Public records" means all records, reports, forms,
2 writings, letters, memoranda, books, papers, maps,
3 photographs, microfilms, cards, tapes, recordings, electronic
4 data processing records, recorded information and all other
5 documentary materials, regardless of physical form or
6 characteristics, having been prepared, or having been or being
7 used, received, possessed or under the control of any public
8 body. "Public records" includes, but is expressly not limited
9 to: (i) administrative manuals, procedural rules, and
10 instructions to staff, unless exempted by Section 7(p) of this
11 Act; (ii) final opinions and orders made in the adjudication of
12 cases, except an educational institution's adjudication of
13 student or employee grievance or disciplinary cases; (iii)
14 substantive rules; (iv) statements and interpretations of
15 policy which have been adopted by a public body; (v) final
16 planning policies, recommendations, and decisions; (vi)
17 factual reports, inspection reports, and studies whether
18 prepared by or for the public body; (vii) all information in
19 any account, voucher, or contract dealing with the receipt or
20 expenditure of public or other funds of public bodies; (viii)
21 the names, salaries, titles, and dates of employment of all
22 employees and officers of public bodies; (ix) materials
23 containing opinions concerning the rights of the state, the
24 public, a subdivision of state or a local government, or of any
25 private persons; (x) the name of every official and the final
26 records of voting in all proceedings of public bodies; (xi)

1 applications for any contract, permit, grant, or agreement
2 except as exempted from disclosure by subsection (g) of Section
3 7 of this Act; (xii) each report, document, study, or
4 publication prepared by independent consultants or other
5 independent contractors for the public body; (xiii) all other
6 information required by law to be made available for public
7 inspection or copying; (xiv) information relating to any grant
8 or contract made by or between a public body and another public
9 body or private organization; (xv) waiver documents filed with
10 the State Superintendent of Education or the president of the
11 University of Illinois under Section 30-12.5 of the School
12 Code, concerning nominees for General Assembly scholarships
13 under Sections 30-9, 30-10, and 30-11 of the School Code; (xvi)
14 complaints, results of complaints, and Department of Children
15 and Family Services staff findings of licensing violations at
16 day care facilities, provided that personal and identifying
17 information is not released; ~~and~~ (xvii) records, reports,
18 forms, writings, letters, memoranda, books, papers, and other
19 documentary information, regardless of physical form or
20 characteristics, having been prepared, or having been or being
21 used, received, possessed, or under the control of the Illinois
22 Sports Facilities Authority dealing with the receipt or
23 expenditure of public funds or other funds of the Authority in
24 connection with the reconstruction, renovation, remodeling,
25 extension, or improvement of all or substantially all of an
26 existing "facility" as that term is defined in the Illinois

1 Sports Facilities Authority Act; and (xviii) recorded images
2 made by an automated traffic law enforcement system under
3 Section 11-208.6 of the Illinois Vehicle Code.

4 (d) "Copying" means the reproduction of any public record
5 by means of any photographic, electronic, mechanical or other
6 process, device or means.

7 (e) "Head of the public body" means the president, mayor,
8 chairman, presiding officer, director, superintendent,
9 manager, supervisor or individual otherwise holding primary
10 executive and administrative authority for the public body, or
11 such person's duly authorized designee.

12 (f) "News media" means a newspaper or other periodical
13 issued at regular intervals whether in print or electronic
14 format, a news service whether in print or electronic format, a
15 radio station, a television station, a television network, a
16 community antenna television service, or a person or
17 corporation engaged in making news reels or other motion
18 picture news for public showing.

19 (Source: P.A. 91-935, eff. 6-1-01; 92-335, eff. 8-10-01;
20 92-468, eff. 8-22-01; 92-547, eff. 6-13-02; 92-651, eff.
21 7-11-02.)

22 Section 10. The Illinois Vehicle Code is amended by
23 changing Section 11-208.6 as follows:

24 (625 ILCS 5/11-208.6)

1 Sec. 11-208.6. Automated traffic law enforcement system.

2 (a) As used in this Section, "automated traffic law
3 enforcement system" means a device with one or more motor
4 vehicle sensors working in conjunction with a red light signal
5 to produce recorded images of motor vehicles entering an
6 intersection against a red signal indication in violation of
7 Section 11-306 of this Code or a similar provision of a local
8 ordinance.

9 An automated traffic law enforcement system is a system, in
10 a municipality or county operated by a governmental agency,
11 that produces a recorded image of a motor vehicle's violation
12 of a provision of this Code or a local ordinance and is
13 designed to obtain a clear recorded image of the vehicle and
14 the vehicle's license plate. The recorded image must also
15 display the time, date, and location of the violation.

16 (b) As used in this Section, "recorded images" means images
17 recorded by an automated traffic law enforcement system on:

18 (1) 2 or more photographs;

19 (2) 2 or more microphotographs;

20 (3) 2 or more electronic images; or

21 (4) a video recording showing the motor vehicle and, on
22 at least one image or portion of the recording, clearly
23 identifying the registration plate number of the motor
24 vehicle.

25 (c) A county or municipality, including a home rule county
26 or municipality, may not use an automated traffic law

1 enforcement system to provide recorded images of a motor
2 vehicle for the purpose of recording its speed. The regulation
3 of the use of automated traffic law enforcement systems to
4 record vehicle speeds is an exclusive power and function of the
5 State. This subsection (c) is a denial and limitation of home
6 rule powers and functions under subsection (h) of Section 6 of
7 Article VII of the Illinois Constitution.

8 (c-1) A county or municipality, including a home rule
9 county or municipality, may not use an automated traffic law
10 enforcement system as a basis for charging a person facing a
11 steady red light with a traffic violation for turning right, or
12 for turning left from a one-way street onto another one-way
13 street, regardless of whether or not the turn is permitted
14 under paragraph 3 of subsection (c) of Section 11-306 of this
15 Code. This subsection (c-1) is a denial and limitation of home
16 rule powers and functions under subsection (h) of Section 6 of
17 Article VII of the Illinois Constitution.

18 (d) For each violation of a provision of this Code or a
19 local ordinance recorded by an automatic traffic law
20 enforcement system, the county or municipality having
21 jurisdiction shall issue a written notice of the violation to
22 the registered owner of the vehicle as the alleged violator.
23 The notice shall be delivered to the registered owner of the
24 vehicle, by mail, within 30 days after the Secretary of State
25 notifies the municipality or county of the identity of the
26 owner of the vehicle, but in no event later than 90 days after

1 the violation.

2 The notice shall include:

3 (1) the name and address of the registered owner of the
4 vehicle;

5 (2) the registration number of the motor vehicle
6 involved in the violation;

7 (3) the violation charged;

8 (4) the location where the violation occurred;

9 (5) the date and time of the violation;

10 (6) a copy of the recorded images;

11 (7) the amount of the civil penalty imposed and the
12 date by which the civil penalty should be paid;

13 (8) a statement that recorded images are evidence of a
14 violation of a red light signal;

15 (9) a warning that failure to pay the civil penalty or
16 to contest liability in a timely manner is an admission of
17 liability and may result in a suspension of the driving
18 privileges of the registered owner of the vehicle; and

19 (10) a statement that the person may elect to proceed
20 by:

21 (A) paying the fine; or

22 (B) challenging the charge in court, by mail, or by
23 administrative hearing.

24 (e) If a person charged with a traffic violation, as a
25 result of an automated traffic law enforcement system, does not
26 pay or successfully contest the civil penalty resulting from

1 that violation, the Secretary of State shall suspend the
2 driving privileges of the registered owner of the vehicle under
3 Section 6-306.5 of this Code for failing to pay any fine or
4 penalty due and owing as a result of 5 violations of the
5 automated traffic law enforcement system.

6 (f) Based on inspection of recorded images produced by an
7 automated traffic law enforcement system, a notice alleging
8 that the violation occurred shall be evidence of the facts
9 contained in the notice and admissible in any proceeding
10 alleging a violation under this Section.

11 (g) Except as otherwise provided in subsection (g-1),
12 recorded ~~Recorded~~ images made by an automatic traffic law
13 enforcement system are confidential and shall be made available
14 only to the alleged violator and governmental and law
15 enforcement agencies for purposes of adjudicating a violation
16 of this Section, for statistical purposes, or for other
17 governmental purposes. Any recorded image evidencing a
18 violation of this Section, however, may be admissible in any
19 proceeding resulting from the issuance of the citation.

20 (g-1) Notwithstanding subsection (g), recorded images made
21 by an automated traffic law enforcement system may be obtained
22 under the Freedom of Information Act.

23 (h) The court or hearing officer may consider in defense of
24 a violation:

25 (1) that the motor vehicle or registration plates of
26 the motor vehicle were stolen before the violation occurred

1 and not under the control of or in the possession of the
2 owner at the time of the violation;

3 (2) that the driver of the vehicle passed through the
4 intersection when the light was red either (i) in order to
5 yield the right-of-way to an emergency vehicle or (ii) as
6 part of a funeral procession; and

7 (3) any other evidence or issues provided by municipal
8 or county ordinance.

9 (i) To demonstrate that the motor vehicle or the
10 registration plates were stolen before the violation occurred
11 and were not under the control or possession of the owner at
12 the time of the violation, the owner must submit proof that a
13 report concerning the stolen motor vehicle or registration
14 plates was filed with a law enforcement agency in a timely
15 manner.

16 (j) Unless the driver of the motor vehicle received a
17 Uniform Traffic Citation from a police officer at the time of
18 the violation, the motor vehicle owner is subject to a civil
19 penalty not exceeding \$100, plus an additional penalty of not
20 more than \$100 for failure to pay the original penalty in a
21 timely manner, if the motor vehicle is recorded by an automated
22 traffic law enforcement system. A violation for which a civil
23 penalty is imposed under this Section is not a violation of a
24 traffic regulation governing the movement of vehicles and may
25 not be recorded on the driving record of the owner of the
26 vehicle.

1 (k) An intersection equipped with an automated traffic law
2 enforcement system must be posted with a sign visible to
3 approaching traffic indicating that the intersection is being
4 monitored by an automated traffic law enforcement system.

5 (l) The compensation paid for an automated traffic law
6 enforcement system must be based on the value of the equipment
7 or the services provided and may not be based on the number of
8 traffic citations issued or the revenue generated by the
9 system.

10 (m) This Section applies only to the counties of Champaign,
11 Cook, DeKalb, DuPage, Kane, Kankakee, Lake, La Salle, Madison,
12 McHenry, McLean, Peoria, St. Clair, Sangamon, Vermilion, ~~and~~
13 Will, and Winnebago and to municipalities located within those
14 counties.

15 (Source: P.A. 94-795, eff. 5-22-06.)